

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JAMES EASTMAN, On Behalf of Himself and All Others Similarly Situated,	:	Civil Action No.: 08-CV-0058 (LBS)
	:	
Plaintiff,	:	
	:	
v.	:	
MERRILL LYNCH & CO., INC., E.	:	
STANLEY O'NEAL, LOUIS DIMARIA,	:	
ALBERTO CRIBIORE, ARMANDO M.	:	
CODINA, VIRGIS W. COLBERT, JOHN D.	:	
FINNEGAN, AULANA L. PETERS,	:	
CHARLES O ROSSOTTI, JILL K.	:	
CONWAY, CAROL T. CHRIST, JUDITH	:	
MAYHEW JONAS, JOSEPH W. PRUEHER,	:	
ANN N. REESE, DAVID K. NEWBIGGERING,	:	
THE INVESTMENT COMMITTEE OF THE	:	
MERRILL LYNCH & CO., INC. 401(K)	:	
SAVINGS AND INVESTMENT PLAN, THE	:	
ADMINISTRATIVE COMMITTEE OF THE	:	
MERRILL LYNCH 401(K) SAVINGS AND	:	
INVESTMENT PLAN, and JOHN DOES 1-	:	
20,	:	
	:	
Defendants.	:	(Caption Continued)

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**PLAINTIFF JAMES EASTMAN'S SUBMISSION REGARDING THE  
APPOINTMENT OF INTERIM LEAD COUNSEL FOR THE CLASS**

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ELIZABETH ESTEY, individually and on behalf  
of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E. STANLEY  
O'NEAL, CAROL T. CHRIST, ARMANDO M.  
CODINA, VIRGIS W. COLBERT, JILL K.  
CONWAY, ALBERTO CRIBIORE, JOHN D.  
FINNEGAN, JUDITH MAYHEW JONAS,  
DAVID K. NEWBIGGING, AULANA L.  
PETERS, JOSEPH W. PRUEHER, ANN N.  
REESE, CHARLES O. ROSSOTTI, LOUIS  
DIMARIA , PETER STINGI and JOHN AND  
JANE DOES 1-20,

Defendants.

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MARY GIDARO, individually and on behalf of all  
others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., STAN  
O'NEAL, LOU DIMARIA, INVESTMENT  
COMMITTEE OF THE MERRILL LYNCH  
SAVINGS AND INVESTMENT PLAN;  
ADMINISTRATIVE COMMITTEE OF THE  
MERRILL LYNCH SAVINGS AND  
INVESTMENT PLAN and JOHN DOES 1-30,

Defendants.

**Civil Action No. 07-CV-10268 (LBS)**

**Civil Action No. 07-CV-10273 (LBS)**

*(Caption Continued)*

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TARA MOORE, individually and on behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., MERRILL LYNCH & CO., INC. PLAN "INVESTMENT COMMITTEE," MERRILL LYNCH & CO., INC. PLAN ADMINISTRATIVE COMMITTEE, MERRILL LYNCH & CO., INC. MANAGEMENT DEVELOPMENT AND COMPENSATION COMMITTEE, LOUIS DIMARIA, E. STANLEY O'NEAL, ALBERTO CRIBIORE, ARMANDO M. CODINA, VIRGIS W. COLBERT, JOHN D. FINNEGAN, AULANA L. PETERS, and JOHN DOES 1-10,

Defendants.

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GREGORY YASHGUR, individually and on behalf of all other similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., ADMINISTRATIVE COMMITTEE OF THE MERRILL LYNCH & CO., INC. 401K SAVINGS AND INVESTMENT PLAN, JOHN D. FINNEGAN, JUDITH JONAS MAYHEW, AULANA L. PETERS, JOSEPH W. PRUEHER, ANN N. REESE, CHARLES O. ROSSITTI, LOUIS DIMARIA, STAN O'NEAL, ALBERTO CRIBIORE, CAROL T. CHRIST, ARMANDO M. CODINA, VIRGIS W. COLBERT and JOHN DOES,

Defendants.

**Civil Action No. 07-CV-10398 (LBS)**

**Civil Action No. 07-CV-10569 (LBS)**

*(Caption Continued)*

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CHRISTINE DONLON, On Behalf of All Others  
Similarly Situated,

**Civil Action No. 07-CV-10661 (LBS)**

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E. STANLEY  
O'NEAL, CAROL T. CHRIST, ARMANDO M.  
CODINA, VIRGIS W. COLBERT, JILL K.  
CONWAY, ALBERTO CRIBIORE, LOUIS  
DIMARIA, JOHN D. FINNEGAN, JUDITH  
MAYHEW JONAS, AULANA L. PETERS,  
JOSEPH W. PRUEHER, ANN N. REESE,  
CHARLES O. ROSSOTTI, JOHN DOES 1-20  
(BEING CURRENT AND FORMER MEMBERS  
OF THE BENEFITS ADMINISTRATION  
COMMITTEE OF THE MERRILL LYNCH &  
CO., INC. EMPLOYEE STOCK OWNERSHIP  
PLAN) and JOHN DOES 21-40 (BEING  
CURRENT AND FORMER MEMBERS OF THE  
INVESTMENT COMMITTEE OF THE  
MERRILL LYNCH & CO., INC. EMPLOYEE  
STOCK OWNERSHIP PLAN),

Defendants.

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CARL ESPOSITIO, individually and on behalf of  
all others similarly situated,

**Civil Action No.: 07-CV-10687 (LBS)**

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E. STANLEY  
O'NEAL, CAROL T. CHRIST, ARMANDO M.  
CODINA, VIRGIS W. COLBERT, JILL K.  
CONWAY, ALBERTO BRIBIORE, JOHN D.  
FINNEGAN, JUDITH MAYHEW JONAS,  
DAVID K. NEWBIGGING, AULANA L.  
PETERS, JOSEPH W. PRUEHER, ANN N.  
REESE, CHARLES O. ROSSOTTI, LOUIS  
DIMARIA, PETER STINGI, and JOHN AND  
JANE DOES 1-20,

Defendants.

*(Caption Continued)*

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SEAN SHAUGHNESSEY, individually and on behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., MERRILL LYNCH & CO., INC. INVESTMENT COMMITTEE, MANAGEMENT DEVELOPMENT AND COMPENSATION COMMITTEE OF THE MERRILL LYNCH & CO., INC. BOARD OF DIRECTORS, THE MERRILL LYNCH TRUST COMPANY, FSB, ADMINISTRATIVE COMMITTEE OF THE MERRILL LYNCH & CO., INC. 401K SAVINGS AND INVESTMENT PLAN, LOUIS DIMARIA, ARMANDO M. CODINA, VIRGIS W. COLBERT, ALBERTO CRIBIORE, JOHN D. FINNEGAN, AULANA L. PETERS, and JOHN DOES 1-40,

Defendants.

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BARBARA BOLAND, individually and on behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., E. STANLEY O'NEAL, CAROL T. CHRIST, ARMANDO M. CODINA, VIRGIS W. COLBERT, JILL K. CONWAY, ALBERTO CRIBIORE, JOHN D. FINNEGAN, JUDITH MAYHEW JONAS, DAVID K. NEWBIGGING, AULANA L. PETERS, JOSEPH W. PRUEHER, ANN N. REESE, CHARLES O. ROSSOTTI, and JOHN AND JANE DOES 1-20,

Defendants.

**Civil Action No.: 07-CV-10710 (LBS)**

**Civil Action No. 07-CV-11054 (LBS)**

*(Caption Continued)*

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FRANCIS LEE SUMMERS, III, individually and  
on behalf of all others similarly situated,

Plaintiff,

v.

MERRILL LYNCH & CO., INC., STAN  
O'NEAL; LOU DIMARIA; INVESTMENT  
COMMITTEE OF THE MERRILL LYNCH  
SAVINGS AND INVESTMENT PLAN;  
ADMINISTRATIVE COMMITTEE OF THE  
MERRILL LYNCH SAVINGS AND  
INVESTMENT PLAN; and JOHN DOES 1-30

Defendants.

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DOMINICK J. PASCULLO and RAYMOND  
GONZALES, on behalf of themselves and all  
others similarly situated,

Plaintiffs,

v.

MERRILL LYNCH & CO., INC., MERRILL  
LYNCH & CO., INC. PLAN INVESTMENT  
COMMITTEE, MERRILL LYNCH & CO., INC.  
PLAN ADMINISTRATIVE COMMITTEE,  
MERRILL LYNCH & CO., INC.  
MANAGEMENT DEVELOPMENT AND  
COMPENSATION COMMITTEE, LOUIS  
DIMARIA, E. STANLEY O'NEAL, ALBERTO  
CRIBIORE, ARMANDO M. CODINA, VIRGIS  
W. COLBERT, JOHN D. FINNEGAN,  
AULANA L. PETERS and JOHN AND JANE  
DOES 1-20,

Defendants.

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**Civil Action No. 07-CV-11615 (LBS)**

**Civil Action No. 08-CV-1116 (UA)**

Plaintiff, James Eastman, by his undersigned counsel, respectfully submits this response regarding the appointment of interim lead plaintiffs and interim co-lead counsel.

Plaintiff Eastman strongly supports the applications of Shalov Stone Bonner & Rocco LLP and Harwood Feffer, LLP, and their clients, in the above-captioned ERISA actions, including but not limited to, the application entitled Plaintiffs Gidaro and Donlon's Joint Amended Motion for Entry of [Proposed] Pretrial Order No. 1 Consolidating the ERISA Actions and Appointing Interim Lead Plaintiffs and Interim Lead Counsel.

Plaintiff Eastman believes that the interests of the putative class are best represented in this instance by all counsel working cooperatively under the leadership of these two firms.

Dated: February 11, 2008

Respectfully submitted:

MILBERG WEISS LLP

/s/ Lori G. Feldman

Lori Feldman (LF 3478)  
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Counsel for Plaintiff James Eastman

**CERTIFICATE OF SERVICE**

I, Sara Fuks, an associate with the law firm Milberg Weiss LLP, hereby certify that I caused a true and correct copy of Plaintiff James Eastman's Submission Regarding the Appointment of Interim Lead Counsel for the Class to be served with the Clerk of the Court using the CM/ECF system, which will send notifications of filing to the CM/ECF participants listed on the attached Service List, and caused all counsel listed on the Service List to be served by regular U.S. Mail on this 11<sup>th</sup> day of February 2008:

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*/s/ Sara Fuks*

Sara Fuks

**MERRILL LYNCH ERISA**  
**SERVICE LIST**

<p><b><u>Counsel for Plaintiffs:</u></b></p> <p>Wai Kin Chan  <b>LAW OFFICES OF CURTIS V. TRINKO, LLP</b>  16 West 46<sup>th</sup> Street, 7<sup>th</sup> Floor  New York, NY 10036  (T) 212.490.9550  (F) 212.986.0158</p> <p><i>Attorneys for Plaintiffs Elizabeth Estey and Tara Moore</i></p>	Joseph H. Meltzer Edward W. Ciolko Katherine B. Bornstein Joseph A. Weeden <b>SCHIFFRIN BARROWAY TOPAZ &amp; KESSLER, LLP</b> 280 King of Prussia Road Radnor, PA 19087 (T) 610.667.7706 (F) 610.667.7056 <p><i>Attorneys for Plaintiffs Elizabeth Estey and Tara Moore</i></p>
<p>Ralph M. Stone  Thomas G. Ciarlane  Amanda C. Scuder  <b>SHALOV STONE BONNER &amp; ROCCO LLP</b>  485 Seventh Avenue, Suite 1000  New York, NY 10018  (T) 212.239.4340  (F) 212.239.4310</p> <p><i>Attorneys for Plaintiff Mary Gidaro</i></p>	Ronen Sarraf <b>SARRAF GENTILE LLP</b> 11 Hanover Square New York, NY 10005 (T) 212.868.3610 (F) 212.918.7967 <p><i>Attorneys for Plaintiff Mary Gidaro</i></p>
<p>Edwin J. Mills  <b>STULL, STULL &amp; BRODY</b>  6 East 45<sup>th</sup> Street  New York, NY 10017  (T) 212.687.7230  (F) 212.490.2022</p> <p><i>Attorneys for Plaintiff Gregory Yashgur</i></p>	Robert I. Harwood Samuel K. Rosen <b>HARWOOD FEFFER LLP</b> 488 Madison Avenue, 8 <sup>th</sup> Floor New York, NY 10022 (T) 212.935.7400 (F) 212.753.3630 <p><i>Attorneys for Plaintiff Christine Donlon</i></p>

<p>Robert B. Weiser  <b>THE WEISER LAW FIRM, P.C.</b>  121 N. Wayne Avenue, Suite 100  Wayne, PA 19087  (T) 610.225.2677</p> <p><i>Attorneys for Plaintiff Christine Donlon</i></p>	<p>Lynda J. Grant  <b>COHEN, MILSTEIN, HAUSFELD &amp; TOLL, P.L.L.C.</b>  150 East 52<sup>nd</sup> Street, 13<sup>th</sup> Floor  New York, NY 10022  (T) 212.838.7797  (F) 212.838.7745</p> <p><i>Attorneys for Plaintiff Carl Esposito and Barbara Boland and Ann Molin</i></p>
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<p>Lynn L. Sarko  Derek W. Loeser  Erin M. Riley  Tyler L. Farmer  <b>KELLER ROHRBACK L.L.P.</b>  1201 Third Avenue, Suite 3200  Seattle, WA 98101-3052  (T) 206.623.1900  (F) 206.623.3384</p> <p><i>Attorneys for Plaintiff Carl Esposito and Barbara Boland and Ann Molin</i></p>	<p>William Bernarduci  Robert I. Izard  <b>SCHATZ NOBEL IZARD P.C.</b>  20 Church Street, Suite 1700  Hartford, CT 06103  (T) 860.493.6292  (F) 860.493.6290</p> <p><i>Attorneys for Plaintiff Sean Shaughnessey</i></p>

<p>Diane Nygaard  <b>THE NYGAARD LAW FIRM</b>          4501 College Blvd., Ste. 260          Leawood, KS 66211          (T) 913.469.5544          (F) 913.469.1561</p> <p><i>Attorneys for Plaintiff Sean Shaughnessey</i></p>	<p>Carolyn G. Anderson          Timothy J. Becker          Anne T. Regan          Kirsten D. Hedberg  <b>ZIMMERMAN REED, P.L.L.P.</b>          651 Nicollet Mall, Suite 501          Minneapolis, MN 55402          (T) 612.341.0400          (F) 612.341.0844</p> <p><i>Attorneys for Plaintiff Barbara Boland and Ann Molin</i></p>
<p>Gregg M. Fishbein  <b>LOCKRIDGE GRINDAL NAUEN, P.L.L.P.</b>          100 Washington Avenue So., Suite 2200          Minneapolis, MN 55401          (T) 612.339.6900          (F) 612.339.0981</p> <p><i>Attorneys for Plaintiff Barbara Boland and Ann Molin</i></p>	<p>Jill S. Abrams  <b>ABBEY SPANIER RODD &amp; ABRAMS, LLP</b>          212 E. 39<sup>th</sup> Street          New York, NY 10016          (T) 212.889.3700          (F) 212.684.5191</p> <p><i>Attorneys for Plaintiff Francis Lee Summers, III</i></p>
<p>Robert M. Roseman          Theodore M. Lieverman          Andrew D. Abramowitz          David Felderman  <b>SPECTOR, ROSEMAN &amp; KODROFF, P.C.</b>          1818 Market Street, Suite 2500          Philadelphia, PA 19103          (T) 215.496.0300          (F) 215.496.6611</p> <p><i>Attorneys for Plaintiff Francis Lee Summers, III</i></p>	<p>William T. Payne  <b>STEMBER, FEINSTEIN, DOYLE &amp; PAYNE, LLC</b>          Pittsburgh North Office          1007 Mt. Royal Boulevard          Pittsburgh, PA 15223          (T) 412.492.8797          (F) 412.492.8978</p> <p><i>Attorneys for Plaintiff Francis Lee Summers, III</i></p>
<p>Ellen M. Doyle  <b>STEMBER, FEINSTEIN, DOYLE &amp; PAYNE, LLC</b>          1705 Allegheny Building          492 Forbes Avenue          Pittsburgh, PA 15219          (T) 412.338.1445          (F) 412.232.3730</p> <p><i>Attorneys for Plaintiff Francis Lee Summers, III</i></p>	<p>Thomas J. McKenna  <b>GAINEY &amp; MCKENNA</b>          295 Madison Avenue          New York, NY 10017          (T) 212.983.1300          (F) 212.983.0383</p> <p><i>Attorneys for Plaintiffs Dominick Pascullo and Raymond Gonzales</i></p>

<u>Counsel for Defendants:</u>	
<p>Jay B. Kasner <b>SKADDEN, ARPS, SLATE, MEAGHER &amp; FLOM LLP</b> Four Times Square New York, NY 10036 (T) 212.735.3000 (F) 212.735.2000</p> <p><i>Attorneys for Defendant Merrill Lynch &amp; Co.</i></p>	<p>Paul Blakenstein <b>GIBSON, DUNN &amp; CRUTCHER, LLP</b> 1050 Connecticut Avenue, N.W. Washington, DC 20036 (T) 202.955.8500 (F) 202.955.0539</p> <p><i>Attorneys for Defendants E. Stanley O'Neal, Carol T. Christ, Armando M. Codina, Virgis W. Colbert, Jill K. Conway, Alberto Cribiore, John D. Finnegan, Judith Mayhew Jonas, David K. Newbigging, Aulana L. Peters, Joseph W. Prueher, Ann N. Reese, Charles O. Rossotti, Louis Dimaria, and Peter Stinci</i></p>